

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORACLE USA,

Plaintiff,

v.

GRAPPHNET INC,

Defendant.

No. C-06-05351 MJJ (EDL)

NOTICE OF SETTLEMENT
CONFERENCE AND SETTLEMENT
CONFERENCE ORDER

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter was referred to Magistrate Judge Elizabeth D. Laporte for Settlement Conference. You are hereby notified that the conference is scheduled for **April 26, 2007** at **10:00 a.m.**, Courtroom E, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

Lead trial counsel shall appear at the Settlement Conference with the parties and with the person or persons having **full authority** to negotiate and to settle the case. In all cases in which a party is insured, the carrier's claims representative and attorney, if any, with **full authority** to negotiate up to the limits of coverage shall also attend the Settlement Conference. In cases where settlement authority rests with a governing body, counsel shall advise the Court and opposing counsel by letter at least 72 hours prior to the conference, of the manner in which the governing body will appear.

In light of the letter dated March 16, 2007 and the agreement of opposing counsel, the Court will allow participation by telephone by Defendant Graphnet and its counsel. The parties must be available throughout the entire conference. If the Court concludes the absence of Graphnet's

representative and its Counsel is interfering with the settlement conference, the Court may continue the settlement conference and order personal attendance by each party.

On or before April 16, 2007, the parties shall deliver directly to the Magistrate Judge a Confidential Settlement Conference Statement which should not be filed with the Clerk of the Court or served upon other parties.

The Confidential Settlement Conference Statement shall not exceed twenty-five (25) pages of text exclusive of exhibits. (Parties are encouraged to include as exhibits any key documents and deposition excerpts). The Confidential Settlement Conference Statement shall include the following:

1. A brief statement of the facts of the case.
2. A brief statement of the claims and defenses including, but not limited to, statutory or other grounds upon which the claims are founded, a candid, forthright evaluation of the parties' likelihood of prevailing on the claims and defenses and a description of the major issues in dispute.
3. A list of the key facts in dispute and a brief statement of the specific evidence relevant to those facts.
4. A summary of the proceedings to date and any pending motions.
5. An estimate of the out of pocket expenses, attorney's fees and time to be expended for further discovery, pretrial and trial.
6. The relief sought, including an itemization of damages.
7. The party's position on settlement, including present demands and offers and a history of past settlement discussions.
8. If there have been no prior settlement discussions, plaintiff must serve a demand letter outlining its theories for recovery, supporting facts and damages in writing **at least 7 days before** the conference, and defendant must respond in writing **at least 3 days before** the conference.

It is not unusual for conferences to last two to three hours or more. No participant in the settlement conference will be permitted to leave the settlement conference before it is concluded without the permission of the settlement conference judge.

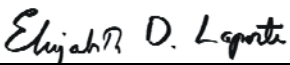
Parties are encouraged to participate and frankly discuss their case. Statements they make during the conference will not be admissible at trial to prove or disprove liability in the event the case does not settle. The parties should be prepared to discuss such items as their settlement objectives, any

1 impediments to settlement that they perceive, whether they have enough information to discuss
2 settlement and, if not, what additional information is needed and the possibility of a creative resolution
3 of the dispute.

4 Any request to continue the settlement conference shall be submitted in writing as soon as
5 possible after consultation with the opposing party. **The request must demonstrate a compelling**
6 **reason for a continuance**, and state whether the opposing party(ies) agree or oppose the request. Any
7 party who objects to the continuance should submit a written response within 2 business days.
8 Submission by facsimile is acceptable at facsimile number (415) 522-2002. **A paper copy of all**
9 **electronically filed documents must be delivered to chambers no later than 12:00 noon on the day**
10 **after the document is electronically filed.**

11 The parties shall notify Magistrate Judge Laporte's Courtroom Deputy **immediately** at (415)
12 522-3694 if this case settles prior to the date set for settlement conference.

13 Dated: April 6, 2007

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15 ELIZABETH D. LAPORTE
16 United States Magistrate Judge
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